## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:	To	eam:	CCRB Case #:	Ø	Force	$\checkmark$	Discourt.		U.S.
Casey McCann	Sc	quad #14	202001820	Ø	Abuse		O.L.	$\overline{\checkmark}$	Injury
Incident Date(s)	L	ocation of Incident:	•	P	Precinct:	18	Mo. SOL	F	EO SOL
Sunday, 08/18/2019 3:09 AM					73	2/	/18/2021	10	0/5/2021
Date/Time CV Reported	C	V Reported At:	How CV Reported	:	Date/Time	Rece	eived at CCF	₹B	
Sun, 08/18/2019 12:00 PM	IA	AB	Phone		Wed, 08/2	.8/201	9 10:51 AM	1	
Complainant/Victim	Туре	Home Addi	ress						
Witness(es)		Home Addı	ress						
Subject Officer(s)	Shield	TaxID	Command						
1. POM Xavier Galloza	06116	948996	PSA 2						
2. Officers									
3. An officer									
4. POM John Felsberg	04064	954801	PSA 2						
5. POM Robert Wihlborg	03360	961449	PSA 2						
Witness Officer(s)	Shield No	Tax No	Cmd Name						
1. POM Karl Hanisch	23619	952825	PSA 2						
2. SGT Tremayne Craigg	3134	943412	PSA 2						
Officer(s)	Allegation				Inve	estiga	ator Recon	ıme	ndation
A. Officers	Abuse: Offi	cers questioned indi	ividuals.						
B. An officer	Force: An o	fficer used physical	force against § 87(2)(b)						
C. An officer	Force: An o	fficer used physical	force against individ	uals					
D. Officers	Force: Office	Force: Officers used physical force against Unknown.							
E.POM Xavier Galloza		Discourtesy: Police Officer Xavier Galloza spoke discourteously to § 87(2)(b)							
F.POM Xavier Galloza		Discourtesy: Police Officer Xavier Galloza spoke discourteously to § 87(2)(b)							
G.POM Xavier Galloza	Force: Polices 87(2)(b)	ce Officer Xavier Ga	alloza used a taser aga	ainst	:				
H. An officer	Force: An o	officer used physical	force against § 87(2)(b)						

Officer(s)	Allegation	Investigator Recommendation
I. Officers	Abuse: Officers threatened individuals with the use of force.	
J. Officers	Discourtesy: Officers spoke discourteously to individuals.	
K. Officers	Abuse: Officers threatened to arrest individuals.	
L. Officers	Force: Officers used physical force against § 87(2)(b)	
M. Officers	Force: Officers used physical force against §87(2)(b)	
§ 87(2)(g), § 87(4-b)		

## **Case Summary**

<u>Case Buillinary</u>
On August 18, 2019, \$87(2)(b) filed this complaint with IAB via telephone. On
August 28, 2019, the case was received at the CCRB. On September 12, 2019, \$87(2)(b) filed
a duplicate of this complaint with the CCRB via telephone. Though neither \$87(2)(b) nor \$2.75
filed their complaints on behalf of anyone else, the investigation identified the following
individuals as present during this incident: \$87(2)(b) s girlfriend, \$87(2)(b)
s friend, \$87(2)(b) and \$87(2)(b) s friend, known only as \$87(2)(b)
and \$87(2)(b) who have no known relation to either \$87(2)(b) or \$57(2)
were also identified as present per police documentation.
On August 17, 2019 into the early morning of August 18, 2019, § 87(2)(b)
and were present at a
block party on \$87(2)(b) between \$87(2)(b) and \$87(2)(b) in
Brooklyn. Beginning at approximately 1:39 a.m., several 911 calls reported shots fired, including at
officers, in the vicinity of \$87(2)(b) in Brooklyn,
which resulted in a level one mobilization. Police Officers Xavier Galloza, Karl Hanisch, §87(2)(6)
Wihlborg, John Felsberg, Biko Harvey, and Sergeant Tremayne Craigg, all of Police Service Area 2
(PSA 2) were among the many responding officers. Officers asked individuals on the block for their
identifications ( <b>Allegation A: Abuse of Authority</b> , § 87(2)(5), § 87(2)(5) An officer allegedly pushed
on his chest, as well as pushed other unidentified individuals ( <b>Allegations B and C:</b>
Force, \$87(2)(2) Officers allegedly punched the individual known only as about
his body (Allegation D: Force, officers unidentified). PO Galloza allegedly approached
and said, "Don't fucking move" (Allegations E and F:
Discourtesy, § 87(2)(g)  PO Galloza then tased § 87(2)(b)  (Allegation G: Force,
An officer allegedly punched \$87(2)(b) in the face (Allegation H:
Force, \$87(2)(2) Officers allegedly told several individuals present at the location,
"I'm going to tase you," and, "If you don't get off this fucking block right now, everyone's getting
arrested" (Allegations I and K: Abuse of Authority, Allegation J: Discourtesy, \$87(2)(9)
Officers allegedly punched \$87(2)(b) in the face and stomped on his face
during the course of his arrest (Allegation L and M: Force, \$87(2)(g)
was arrested for attempted assault on a police/peace officer and disorderly
conduct. §87(2)(b) were arrested for disorderly conduct and
ultimately released with criminal court summonses. Neither \$87(2)(b) s, \$87(2)(b) s,
nor \$87(2)(b) arrests from this incident were listed in the Office of Court Administration
(OCA) database or the New York State Unified Court System's ECOURTS database (BR 32-33).
§ 87(2)(b)
37 body-worn camera videos of this incident were received from officers assigned to PSA
2 and the 73 <sup>rd</sup> Precinct. Relevant footage will be discussed in further detail below.
Findings and Recommendations Allegation (A) Abuse of Authority: Officers questioned individuals.
The investigation established the following facts:
As a result of the shots fired calls, especially the call regarding shots fired at members of
service, officers who responded to the level one mobilization closed \$87(2)(6) between
between the tesponded to the level one modification closed solution

who were on the block at the time of the shooting, before the individuals could leave the crime scene. PO Galloza interacted with \$87(2)(b) tased him, and ultimately arrested

attempted to collect identifying information for all individuals present, including §87(2)(b) and

and \$87(2)(b) due to the crime scene investigation. Officers

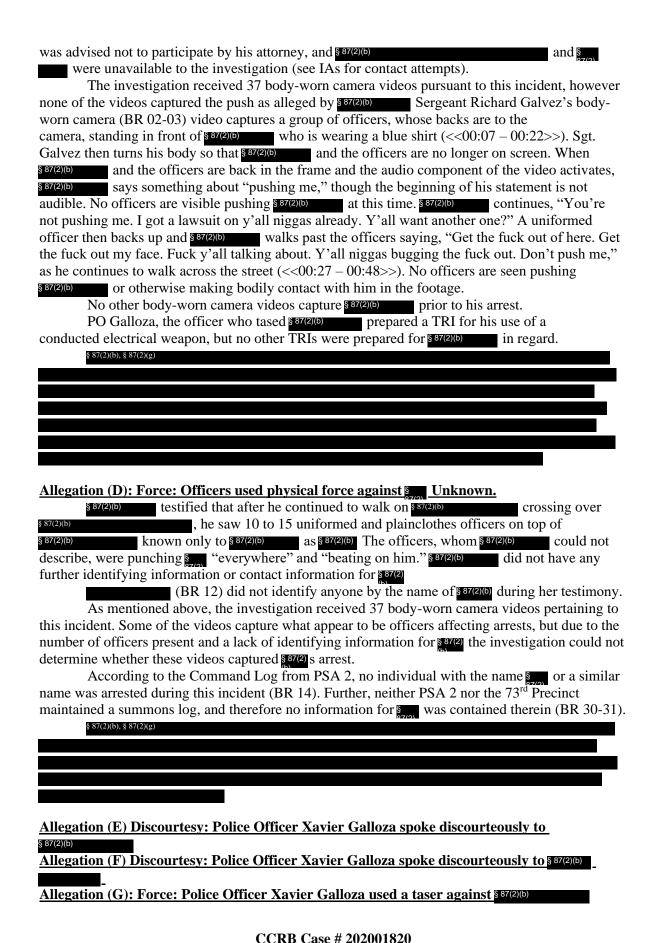
him. § 87(2)(b) was also arrested and sustained injuries during the course of his arrest. §
was also arrested and alleged officers used force against him during his arrest.
(BR 01) testified that he attended an annual block party on § 87(2)(b)
between \$87(2)(b) and \$87(2)(b) in Brooklyn, beginning at 9:00 p.m. on
August 17, 2019. § 87(2)(b) had a small cup of Hennessy during the party, but was not
intoxicated. At approximately 12:00 a.m. on August 18, 2019, \$87(2)(b) heard six to seven
gunshots. Less than three minutes later, both marked and unmarked police vehicles arrived on
. Officers told everyone to move and §87(2)(b) began walking down §87(2)(b)
toward § 87(2)(b) Approximately 40 officers were on the sidewalk. A
uniformed officer, who §87(2)(b) described as a white male with black curly hair, 6'3", muscular
build, and approximately in his late 20s/early 30s, asked §87(2)(b) for his identification and said,
"This is the only way you can get to the other side of the street." provided his
identification and the officer proceeded to write down §87(2)(b) s full name and address before
immediately returning his identification to him.
The investigation received 37 body-worn camera videos pursuant to this incident. PO
Harvey's and PO Felsberg's body-worn camera videos each capture the officers asking individuals
on the block for their identification or contact information before allowing them to leave the area.
In PO Harvey's body-worn camera footage (BR 36, 03), PO Harvey approaches a male and female
sitting on a set of stairs in front of a residence and asks them for their identification. The female
explains that she is not trying to leave the area and therefore PO Harvey tells her she does not have
to provide identification. PO Harvey then follows the male to his vehicle, where the male retrieves
his identification and gives it to PO Harvey. PO Harvey records the information in his memo book
(<<06:14 – 07:59>>). Similarly, in PO Felsberg's body-worn camera footage (BR 37, 03), PO
Felsberg asks a male and a female, who are siblings, for their names, dates of birth, addresses, and
phone numbers. PO Felsberg records the information in his memo book and then allows the
individuals to leave the area $(<<04:20-05:22>>)$ .
Officers can approach individuals to request information when there is some objective
credible reason for that interference not necessarily indicative of criminality. <u>People v. De Bour</u> 40
N.Y.2d 210 (1976) (BR 34).
Where a Fourth Amendment intrusion serves special government needs, beyond the normal
need to law enforcement, it is necessary to balance the individual's privacy expectations against the
Government's [sic] interests to determine whether it is impractical to require a warrant or some
level of individualized suspicion in the particular context. Mich. Dep't of State Police v. Sitz 496
U.S. 444 (1990) (BR 13).
§ 87(2)(b), § 87(2)(g)

Allegation (B) Force: An officer used physical force against \$87(2)(5)

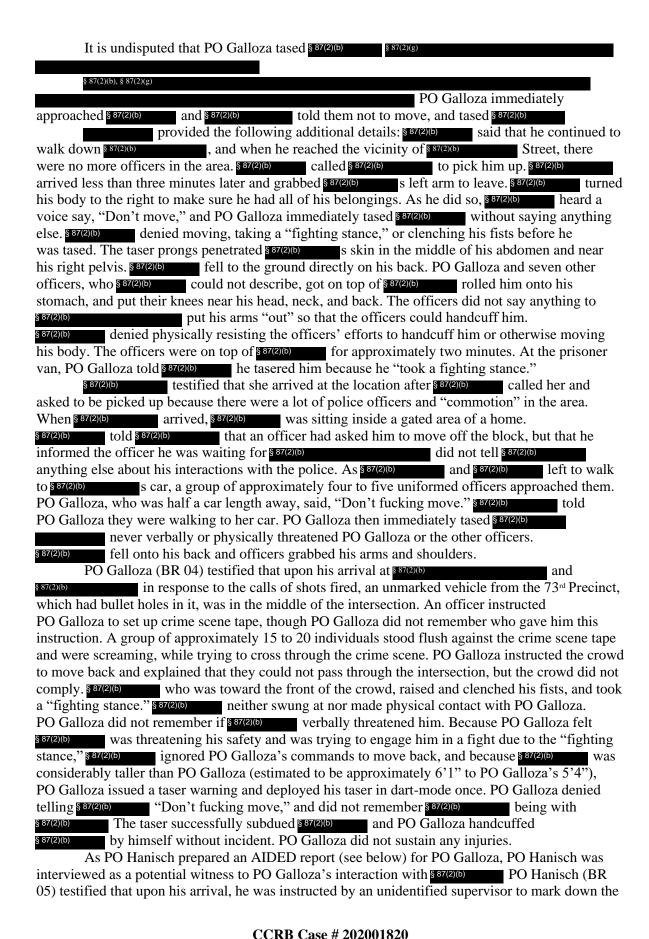
Allegation (C): Force: An officer used physical force against individuals.

As \$87(2)(5) started to walk across the street after showing an officer his identification, the officer allegedly pushed \$97(2)(5) on his chest with his arms extended and palms open, but \$87(2)(5) did not move backwards or stumble as a result of the push. The officer also pushed other people in the area. \$87(2)(5) said, "Don't touch me," and continued to walk across the other side of the street.

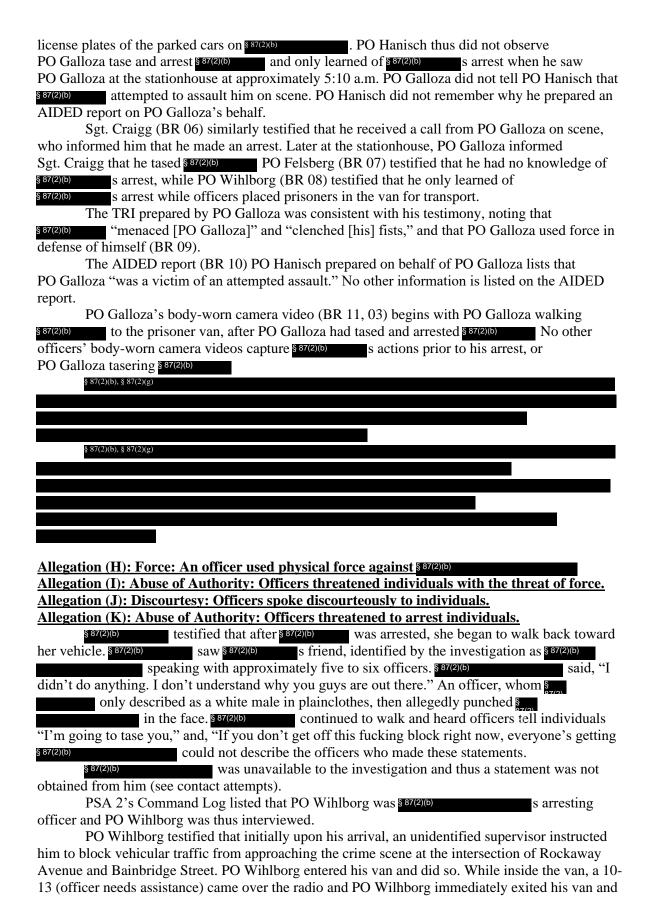
\$87(2)(5) was not with \$87(2)(5) at the time of the alleged push. \$87(2)(5) and \$87(2)(5) did not provide statements, as \$87(2)(5)



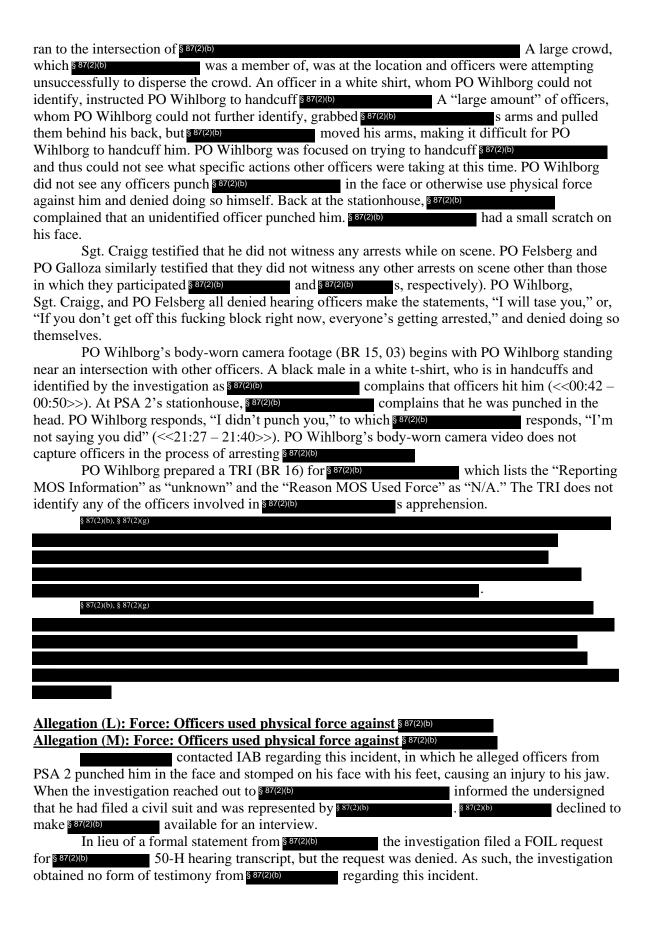
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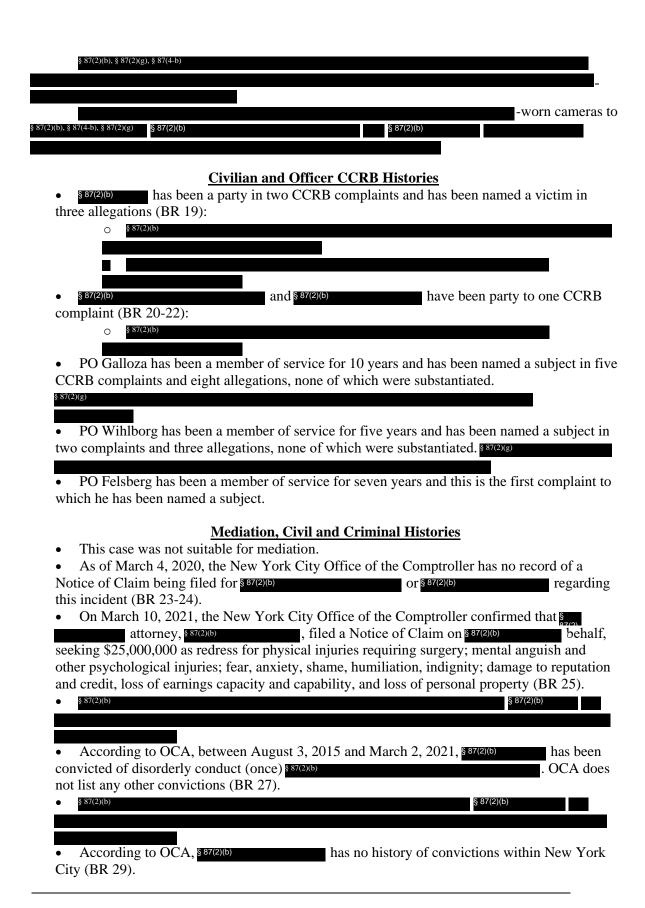
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According to PSA 2's Command Log, PO Felsberg was \$87(2)(b) arresting officer
and therefore was interviewed. PO Felsberg testified that upon his arrival, an unidentified chief
instructed him to obtain the names of individuals present at the crime scene. §87(2)(b)
refused to provide his name, repeatedly came and went from the area, and screamed and yelled at
officers as he did so. An unidentified supervisor then instructed PO Felsberg and other officers,
whom PO Felsberg could not identify, to arrest \$87(2)(6) for disorderly conduct.
began to flee and several officers, including PO Felsberg, pursued \$87(2)(b) on
foot. By the time PO Felsberg caught up with \$87(2)(b) and the other officers,
was already in handcuffs. PO Felsberg could not estimate how long the foot pursuit
lasted. PO Felsberg denied using any physical force against \$87(2)(6) and further denied
seeing any officer do so, including punching \$87(2)(b) in the face or stomping on his face.
PO Felsberg noticed "marks" on \$87(2)(b) back, as \$87(2)(b) was shirtless, but he did
not otherwise see any injuries, including a facial injury, on his person. [887(2)(6)] complained
to PO Felsberg at the stationhouse that officers had punched him in the face and stomped on his
face.
Sgt. Craigg, PO Galloza, and PO Wihlborg all denied observing any arrests, other than
those in which they were involved, at the scene.
PO Felsberg's body-worn camera footage (BR 17, 03) of the incident captures
back at the stationhouse and does not capture \$87(2)(b) arrest. While
PO Felsberg processes \$87(2)(b) says, "They tried to choke me, stomp me
out, and punch me in my face" ( $<<2:55-3:23>>$ ). As PO Felsberg places \$87(2)(b) into the
cell, large scratches are visible on \$87(2)(b) back (<<11:14 – 11:23>>) and there appears to
be redness and swelling to \$87(2)(b) upper left cheekbone (<<11:57 – 11:48>>). As
mentioned throughout the report, no other body-worn camera videos definitively capture
arrest.
PO Felsberg prepared a TRI (BR 18) for \$87(2)(b) in which the "Reporting MOS
Information" was listed as "unknown" and the "Type of Force Used by MOS" was listed as "Other
force – unknown." No identifying information for any of the officers involved in \$87(2)(b)
apprehension was listed.
§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(4-b), § 87(2)(g)
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Squad No.:	14		
Investigator:	Casey McCann Signature	Inv. Casey McCann Print Title & Name	05/25/2021 Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date